



**CITY OF LODI  
COUNCIL COMMUNICATION**

TM

**AGENDATITLE:** Authorize the Interim City Manager to Engage Jones Hall for Bond Counsel Services Related to Surface Water Treatment Plant.

**MEETING DATE:** May 19, 2010

**PREPARED BY:** City Attorney's Office

---

**RECOMMENDED ACTION:** Authorize the Interim City Manager to engage Jones Hall for Bond Counsel Services related to financing the Surface Water Treatment Plant.

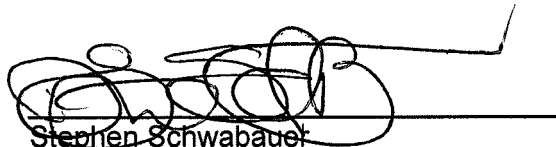
**BACKGROUND INFORMATION:** In January 2010, the City Council authorized the City Manager to engage Stone & Youngberg and Lamont Financial Services for the new surface water treatment plant. At that time staff indicated they would return for approval of Bond Counsel services after issuing a Request for Proposals. Although Orrick Herrington & Sutcliffe has traditionally performed these services, City Manager King felt it was prudent to issue an RFP to ensure the City was paying market rates for these services. Four firms responded to the RFP and responses were as follows:

1)	Jones Hall	\$47,500.00
2)	Ronald E. Lee	\$60,000.00
3)	Straddling Yocca	\$66,500.00
4)	Orrick	\$90,000.00

Jones Hall is a highly regarded public finance firm and it has significant experience with the City's current finance team. Chris Lynch, who will lead the Jones Hall team, served as underwriter's counsel for the City's 2007 Wastewater Financing and impressed staff with his knowledge and responsiveness. Accordingly, staff recommends that Council authorize the Interim City Manager to execute a Bond Counsel contract with Jones Hall.

**FISCAL IMPACT:** Council adopted a resolution at its January 6, 2010 meeting authorizing the City to reimburse itself for any costs incurred. Jones Hall's fee is not to exceed \$47,500 and will be paid from bond proceeds.

**FUNDING:** Potential bond proceeds.

  
Stephen Schwabauer  
City Attorney

---

APPROVED:

  
Konrad Bartlam, Interim City Manager



**Proposal To Provide  
Bond Counsel Services  
to the  
City of Lodi**

**March 24,2010**

**JONES HALL, A PROFESSIONAL LAW CORPORATION  
650 California Street, 18th Floor  
San Francisco, CA 94108**



1. Introduction

Jones Hall is a law firm that is devoted exclusively to public finance and is one of the most active law firms in the State, with an expertise in Build America Bonds and enterprise financings.

2. Name and Location of Assigned Attorneys.

We will provide parher-level representation on this financing. Chris Lynch would be the lead attorney, Bill Madison would provide backup (if necessary) and Dave Walton would provide federal tax law advice. Each of these attorneys is in Jones Hall's San Francisco office. Chris acted as underwriter's counsel on the City's 2007 wastewater finanring. Bill Madison acted as an expert witness on behalf of the City through the City's litigation counsel, Folger Levin & Kahn, in connection with the City's litigation with its former groundwater contamination counsel.

Biographies of the assigned attorneys are available at [www.joneshall.com](http://www.joneshall.com).

3. Relevant Experience.

**General.** During calendar years 2007 through 2009, based on data prepared by Thomson Reuters, Jones Hall participated as bond counsel on approximately 419 municipal financings in California (totaling approximately \$9.5 billion in principal amount).

**Water/wastewater Financings.** During calendar years 2007 through 2009, Jones Hall acted as bond counsel on more than 55 enterprise fund-backed financings (totaling more than \$2.2 billion in principal amount). During calendar years 2007 through 2009, Jones Hall acted as disclosure counsel on more than 30 enterprise fund-backed financings (totaling more than 51 billion in principal amount).

**Chris Lynch Relevant Experience.** Since January 1, 2007, Chris Lynch has acted as the lead attorney on water/wastewater enterprise financings for more than 30 local agencies. A list of the public agencies is available upon request. In 2009, Chris was the lead attorney on six Build America Bond financings, and a handful of other transactions in which the documents provided for Build America Bonds but traditional tax-exempt bonds were issued instead.

**Bill Madison Relevant Experience.** Bill Madison has acted as bond counsel on more than 40 water/wastewater enterprise financings since 2001.

4. No Conflicting Arrangements or Reorepresentations.

We are not aware of any arrangement or representation, formal or informal, that we have with any party that may interfere with our ability to provide independent and unbiased advice and recommendations to the City with respect to the proposed water financing.



5. References.

The following individuals are references for the team we are proposing to provide bond counsel services to the City.

Agency Name: City of West Hollywood

Contact Name: Anil Gandhi, Director of Finance and Technology

Phone Number: 323-848-6330

Email Address: [agandhy@weho.org](mailto:agandhy@weho.org)

Description of Transactions: Chris has acted as bond counsel and disclosure counsel to the City of West Hollywood, its redevelopment agency and its joint powers authority with respect to general fund (including Build America Bonds), redevelopment and Mello-Roos financings.

Agency Name: Moulton Niguel Water District

Contact Name: David Cain (Finance Director); Bob Gumerman (General Manager)

Phone Number: (949) 831-2500

Email Address: [dcain@mnwd.com](mailto:dcain@mnwd.com); [bgumerman@mnwd.com](mailto:bgumerman@mnwd.com)

Description of Transactions: Bill Madison and Chris Lynch acted as bond counsel and disclosure counsel on an enterprise (BABs) financing in connection with the District's water, recycled water and sewer enterprise.

6. Fee Quote.

We propose a flat fee of \$45,000 for our services as bond counsel, and reimbursement for actual out-of-pocket expenses (shipping, delivery and courier services; official transcript duplication) of no more than \$2,500 (excluding publication costs and out-of-state travel). We do not charge for in-state travel expenses.

7. Miscellaneous.

We note that the resolution attached to the request for proposals does not identify the maximum principal amount of the proposed indebtedness, which is a requirement of the IRS regulations (see §1.150-2(e)(2)). If the minutes of the City Council proceedings do not clearly identify the maximum principal amount, then, depending upon the timing of the proposed financing and the related capital expenditures, the City may want to adopt a revised resolution.

8. Conclusion.

Thank you for the opportunity to submit a proposal to provide bond counsel services. We hope to have the opportunity to represent the City. If you have any questions or require any additional information, please call Chris Lynch at (415)391-5780.

JONES HALL  
A Professional Law Corporation

RONALD E. LEE  
ATTORNEY AT LAW

---

March 19 2010

Via **Email**

Blair King, City Manager  
Jordan Ayers, Deputy **City** Manager/Internal Services Director  
City of Lodi  
221 West Pine Street  
Lodi, California 95240

Re: Bond Counsel Proposal for Issuance of Approximately \$40,000,000 Lodi Public  
Improvement Corporation – Water System Certificates of Participation

Dear Mr. King and Mr. Ayers:

**This** is in response to **your** request for proposals for bond counsel services, dated March 1, 2010 (the “RFP”). Ronald E. Lee and the Law Office of **Perry** Israel are pleased to submit **this** joint proposal to serve as bond counsel for the transaction mentioned in the RFP. Ron would act as state law bond counsel and Perry would act as tax counsel.

Brief description of recent experience with water revenue bonds. Ron and Perry acted jointly as bond counsel to the Carmichael Water District on its \$28,550,000 2010 Water Revenue Certificates of Participation financing that closed on March 17, 2010. The 2010 Certificates of Participation refunded the District’s 1999 certificates of participation, which Ron and Perry completed for the District when at Orrick.

Perry and Ron also worked with Carmichael Water District on a \$2,000,000 subordinate debt financing for new capital improvements that closed on November 6, 2009. This transaction was a private placement that closed on November 6, 2009.

While at Orrick, and since establishing their own practices, Perry and Ron worked on billions of dollars of water revenue bonds and certificates of participation, including financings for Carmichael Water District, Arcade Water District, California Department of Water Resources, City of Folsom, Sacramento County Water Agency and El Dorado Irrigation District, among others.

**Staffing—Ronald E. Lee.** For nearly fourteen years, Ron has focused his practice exclusively in public finance, acting as bond counsel, disclosure counsel and underwriter’s counsel. After working for two large California law firms, Ron established a solo public finance practice in March 2006 in Davis, California, where he continues to serve issuers and other municipal bond market participants as bond counsel, disclosure counsel or underwriter’s counsel. Ron has broad experience in governmental enterprise revenue bonds and certificates of participation.

**Staffing—Perry Israel.** Perry has more than 30 years experience as a tax lawyer, with more than 25 of those focused exclusively on the tax aspects of municipal financing. After 20 years as a partner at Orrick, Perry established a solo practice in Sacramento, California, in February 2007.

Blair King  
Jordan Ayers  
March 19, 2010  
Page 2

His clientele consists of municipal issuers, conduit borrower, and various bond counsel firms around the country. He works directly with issuers and conduit borrowers to help them structure bond issues that will accomplish their goals and meet the federal tax requirements relating to municipal bonds. Perry has provided tax advice and opinions, analysis, and documentation on literally hundreds of bond issues, including scores of governmental enterprise revenue obligations.

**Conflicts of Interest.** Neither Perry nor Ron have any arrangements or representations, formal or informal, with any party, that could conflict with or give the appearance of a conflict with our obligation to provide independent and unbiased advice and recommendations in the proposed transaction.

**References.** The following issuers may be contacted as references for Perry and Ron:

Steve Nugent  
General Manager  
Carmichael Water District  
7837 Fair Oaks Blvd.  
Carmichael, CA 95608  
steve@carmichaelwd.org  
(916) 483-2452

David J. Stevens  
Deputy City Attorney  
San Francisco International Airport  
International Terminal, Building 100, Fifth Floor  
San Francisco, CA 94128  
david.stevens@sfgov.org  
(650) 821-3064

**Proposed Compensation.** Perry and Ron would propose to act as tax counsel and bond counsel on this transaction for a fee of \$60,000. This proposal is based upon the assumption that the proceeds are used as described in the RFP and closes in a timely fashion without a substantial change in the legal structure. It includes attendance at meetings in Lodi with the financing team and normal drafting and reviewing of transaction documents. In addition, we would expect to be reimbursed for the costs of the transcripts, which generally runs about \$1,200 for a transaction of this nature. All other expenses are included at no additional charge.

If you have any questions about this proposal or if I can be of assistance to you in any way, please do not hesitate to contact me.

Very truly yours,



Ronald E. Lee

# STRADLING Yocca CARLSON & RAUTH

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

980 9TH STREET, SUITE 1480

SACRAMENTO, CA 95814

TELEPHONE (916) 449.2350

FACSIMILE (916) 141-7034

KEVIN CNUE

DIRECT DIAL: (916) 449-2360

KCIVALE@SYCR.COM

ORANGE COUNTY  
(949) 725-4000

SAN DIEGO  
(858) 926-3000

SAN FRANCISCO  
(415) 283-2240

SANTA BARBARA  
(805) 710-6800

SACRAMENTO  
(916) 449-2350

March 25, 2010

Blair King  
City Manager  
City of Lodi  
City Hall, 221 West Pine Street  
Lodi, CA 95240

## VIA EMAIL

RE: Proposal to Provide Bond Counsel Services

Dear Mr. King:

We are pleased to submit this proposal to provide Bond Counsel Services to the City of Lodi (the "City"). We served as counsel to the underwriters in connection with the City's successful issuance of its **\$60,685,000** Electric System Revenue Certificates of Participation **2008 Series A**, and would be most interested in representing the City itself in the Water System financing.

Stradling Yocca Carlson & Rauth is a recognized leader in public finance in California. Thirty two members of the Firm practice in the areas of public finance and general public law. In **2009** we were ranked second as bond counsel in the State in terms of dollar value of transactions, as well as second as disclosure counsel. In total, the firm served as bond counsel, disclosure counsel or underwriter's counsel on more California transactions than any other firm.

The Firm's experience in the financing of water projects is very extensive. During the period from **January 1, 2007** to present, the Firm acted as bond counsel on **38** financings totaling more than **\$1.7** billion. For many of these transactions, the Firm also acted as disclosure counsel. During that same period, the Firm acted as underwriter's counsel or disclosure counsel (exclusive of engagements where the Firm also acted as bond counsel) on 15 financings for water and/or wastewater projects totaling approximately \$3.1 billion.

In addition, although not exclusively in water system financings, the Firm has served as Bond Counsel on more than fifteen "Build America Bond" transactions.

If the Firm is selected by the City to serve as Bond Counsel, Kevin Civale of our Sacramento office would be the attorney primarily responsible. Mr. Civale has more than **25** years experience in public finance, and has worked on some of the largest and most complex transactions ever undertaken. During his career, Mr. Civale has represented a large number of municipalities and other public sector clients in a variety of financings, including general obligation bonds; certificates of participation; water, wastewater, solid waste, airport and electric utility financings; cash flow financings; industrial

Blair King  
March 25, 2010  
Page 2

development financings; and public/private partnerships. Mr. Civale has also represented a large number of investment banks. He has worked extensively with both Lamont Financial and Stone & Youngberg.

Carol Lew would provide tax advice. She is the past President of the National Association of Bond Lawyers and a past Chair of the Tax Exempt Financing Committee of the Taxation Section of the American Bar Association. She has over 20 years of experience in providing legal advice to state and local government entities as bond counsel on a wide variety of different types of financings including those for cash flow needs, basic public infrastructure, redevelopment, housing, water, transportation, power, and those for nonprofit owned or utilized facilities. In that capacity, Ms. Lew has extensive expertise regarding arbitrage rebate, including the rules regarding the integration of swaps.

We do not believe that the Firm has any arrangement or representation, formal or informal, with any party that would interfere with the Firm's ability to provide independent and unbiased advice and recommendations to the City with respect to this proposed transaction.

We are pleased to provide the following references from clients for which Mr. Civale has very recently served as Bond Counsel:

Nancy Saracino Vice President & General Counsel California ISO 151 Blue Ravine Rd. Folsom, CA 95630 (916) 351-2334	Gloria Dominguez Kern County Deputy County Administrative Officer 1115 Truxtun Avenue, 5th Floor Bakersfield, CA 93301 (661) 868-3170
---	--

We propose a fee of **\$65,000**, contingent on closing of the transaction. In addition to the fee, we would expect to be reimbursed for out-of-pocket expenses in an amount not to exceed \$1,500.

Thank you for your consideration. Please do not hesitate to contact me if you have any comments or questions.

Sincerely,



Kevin M. Civale





ORRICK, HERRINGTON & SUTCLIFFE LLP  
777 SOUTH FIGUEROA STREET  
SUITE 3200  
LOS ANGELES, CALIFORNIA 90017-5855  
tel +1-213-629-2020  
fax +1-213-612-2499  
WWW.ORRICK.COM

March 24, 2010

Eugene J. Carron  
(213) 612-2425  
ecarron5@orrick.com

Mr. Blair King  
City Manager  
City of Lodi  
221 West Pine Street  
Lodi, California 95240

Mr. Jordan Ayers  
Deputy City Manager/Internal Services Director  
City of Lodi  
221 West Pine Street  
Lodi, California 95240

Re: **RFP for Bond Counsel Services**

Dear Messrs. King and Ayers:

Thank you for the opportunity to submit our proposal to serve as bond counsel in the proposed City of Lodi Water System Revenue Certificates of Participation (the "Certificates"). We appreciate the past opportunities Orrick has had to serve the City of Lodi (the "City") as special (bond) counsel in connection with its Waste Water Revenue Certificates of Participation and Electric System Revenue Certificates of Participation Revenue Certificates of Participation and look forward to continuing our relationship with the City.

Orrick has served as bond counsel in approximately 80 water revenue bond transactions in the last five years with an aggregate principal amount of bonds issued in excess of \$7.66 billion. These include issues by the California Department of Water Resources, the San Diego County Water Authority, the Alameda County Water District, the Modesto Irrigation District, the Imperial Irrigation District, the Honolulu Water Supply Board and the Sacramento County Water Financing Authority. The proposed leaders of the Orrick team for the Certificates transaction, Eugene Carron and Larry Sobel, have served as bond counsel for all water financings by the Irvine Ranch Water District since 1986 and for all water financings by the Department of Water and Power of the City of Los Angeles since 1992.

We propose that the Orrick bond counsel team be lead by Eugene Carron with Larry Sobel being responsible for all tax and tax-related Build America Bond issues. These attorneys are both located in Los Angeles and would be supported by associates and paralegals in the Los Angeles office as needed. The biographies of all Los Angeles Orrick lawyers can be found on Orrick's website Orrick.com.

Orrick represents virtually every underwriter and financial advisor working with municipal bonds. Because of the unique role of bond counsel in municipal financings in rendering its approving opinion with respect to validity and tax status of municipal securities, we do not consider the role of bond counsel as that of an advocate for any particular position. With this in mind and the fact that there may be a number of methods of accomplishing an end, we are not aware of any arrangements or representations, formal or



Messrs. King and Ayers  
March 24, 2010Page 2

informal, that Orrick has with any party that may interfere with our ability to provide independent and unbiased advice and recommendations to the City with respect to the options available in structuring the Certificates transaction.

We ~~offer~~ the following persons as references:

Mr. Mario Ignacio, Assistant Chief Financial Officer and Treasurer, Department of Water and Power of the City of Los Angeles, ~~111 North~~ Hope Street, Los Angeles, California, 90012, Telephone 212-367-0690, email [mario.ignacio@ladwp.com](mailto:mario.ignacio@ladwp.com).

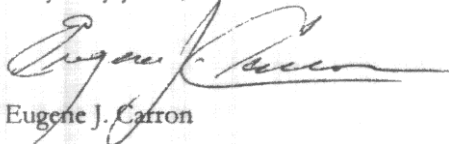
Ma. Debby Cherney, Director of Finance, Irvine Ranch Water District, 15600 Sand Canyon Avenue, Irvine, California, 92618, Telephone 949-453-5350. email [cherney@irwd.com](mailto:cherney@irwd.com).

We propose a fee in the amount of ~~\$85,000~~ plus \$5,000 for expenses for a total fixed amount of \$90,000, payment of which ~~will~~ be contingent on Certificates being delivered. Such fixed amount is premised on the Certificates being issued in no more than two series no later October 31, 2010, all Certificates being issued on the same day under a single Trust Agreement, each series of the Certificates being without credit enhancement and either fixed rate tax-exempt securities or fixed rate Build America Bonds, there being no more than two meetings in the City, document comments being provided by conference call or email, and there being no unusual issues in the financing not described in the request for proposals. If any of the premises should not be realized, we proposes that any additional work required would be compensated at the standard rates for the timekeeper performing such work.

In reviewing the request for proposals, we noted that the attached reimbursement resolution does not meet IRS standards in that no maximum amount of proposed bonds is specified. While we are anxious to be the City's bond counsel, even if we are not selected we urge you to consult with bond counsel on the reimbursement resolution.

Thank you again for the opportunity to submit this proposal. We understand that all California cities are facing difficult times and have crafted our fee proposal to reflect this. We value our relationship with the City and would hope that we can work together with the City and its financing team to plan and implement an efficient and cost effective financing for the City.

Very truly yours,



Eugene J. Carron

cc: sweil@lamonrfin.com  
alexpopr@lamontfin.com

## **AGREEMENT FOR LEGAL SERVICES**

### **BETWEEN THE CITY OF LODI AND JONES HALL, A PROFESSIONAL LAW CORPORATION, FOR BOND COUNSEL SERVICES IN CONNECTION WITH A WATER REVENUE FINANCING**

This AGREEMENT FOR LEGAL SERVICES is entered into this \_\_\_\_ day of \_\_\_\_, 2010, between the CITY OF LODI (the "Client") and JONES HALL, A PROFESSIONAL LAW CORPORATION, San Francisco, California ("Attorneys").

#### ***BACKGROUND:***

1. The Client is proceeding to construct various improvements to its water enterprise consisting generally of a new water treatment plant and related distribution connections (the "Project").
2. The Client has proposed to cause execution and delivery of water revenue certificates of participation or issuance of water revenue bonds (collectively, the "Securities") to finance the Project.
3. In order to cause execution, delivery and sale of the Securities, the Client requires the services of nationally-recognized bond counsel.

#### ***AGREEMENT:***

In consideration of the foregoing and the mutual covenants contained in this Agreement, the Client and Attorneys agree as follows:

Section 1. Attorney-Client Relationship. Upon execution of this Agreement, the Client will be Attorneys' client and an attorney-client relationship will exist between Client and Attorneys. Attorneys assume that all other parties will retain such counsel, as they deem necessary and appropriate to represent their interests in this transaction. Attorneys further assume that all other parties understand that in this transaction Attorneys represent only the Client, Attorneys are not counsel to any other party, and Attorneys are not acting as an intermediary among the parties. Attorneys' services as bond counsel are limited to those contracted for in this Agreement; the Client's execution of this Agreement will constitute an acknowledgment of those limitations. Attorneys' representation of the Client will not affect, however, our responsibility to render an objective Bond Opinion.

Section 2. Scope of Engagement. Attorneys shall perform all of the following services as bond counsel in connection with the delivery and sale of the Securities for the purpose of providing financing for the Project:

- a. Consultation and cooperation with Client and Client staff to assist in the formulation of a coordinated financial and legal delivery of the Securities.
- b. Preparation of all legal proceedings for the authorization, execution and delivery of the Securities by the Client; including (a) preparation of a resolution of the governing board of the Client and a resolution of the governing board of the Lodi Public Improvement Corporation (the

"Corporation") authorizing the execution, delivery and sale of the Securities and approving related documents and actions, (b) preparation of all financing documents, including installment sale agreement and trust agreement, (c) preparation of all documents required for the closing of the issue, (d) supervising the closing, and (e) preparation of all other proceedings incidental to or in connection with the execution, delivery and sale of the Securities.

- c. Advising the Client, from the time Attorneys are hired as Bond Counsel until the Securities are delivered, as to compliance with federal tax law as required to ensure that interest on the Securities is exempt from federal income taxation or that the Securities otherwise comply with applicable federal tax law (if the Securities are issued as Build America Bonds).
- d. Upon completion of proceedings to Attorneys' satisfaction, providing a legal opinion (the "Bond Opinion") approving the validity and enforceability of the proceedings for the authorization, execution and delivery of the Securities, and (a) stating that, if the Securities are issued as tax-exempt obligations, the interest on the Securities is excluded from gross income for purposes of federal income taxes, (b) stating that the interest on the Securities is exempt from California personal income taxation and, (c) if the Securities are issued as Build America Bonds, providing the appropriate federal tax law opinion. The Bond Opinion will be addressed to the Client, and may also be addressed to the underwriter of the Securities and other participants in the financing.
- e. Review those sections of the official statement or other form of offering or disclosure document to be disseminated in connection with the sale of the Securities involving summary descriptions of the Securities, the legal proceedings leading to the authorization and sale of the Securities, the legal documents under which the Securities will be issued, and federal tax law and securities law provisions applicable to the Securities, as to completeness and accuracy.
- f. Assist the Client in presenting information to bond rating organizations and providers of credit enhancement relating to legal issues affecting the delivery of the Securities.
- g. Draft the continuing disclosure undertaking of the Client.
- h. Such other and further services as are normally performed by bond counsel in connection with similar financings.

Attorneys' Bond Opinion will be delivered by Attorneys on the date the Securities are exchanged for their purchase price (the "Closing").

The Bond Opinion will be based on facts and law existing as of its date, will cover certain matters not directly addressed by such authorities, and will represent Attorneys' judgment as to the proper treatment of the interest with respect to the Securities for federal income tax purposes. Attorneys' opinion is not binding on the Internal Revenue Service ("IRS") or the courts. Attorneys cannot and will not give any opinion or assurance about the effect of future changes in the Internal Revenue Code of 1986 (the "Code"), the applicable regulations, the

interpretation thereof or the enforcement thereof by the IRS. Client acknowledges that future legislation, if enacted into law, or clarification of the Code may cause interest with respect to the Securities to be subject, directly or indirectly, to federal income taxation, or otherwise prevent owners of the Securities from realizing the full current benefit of the tax status of such interest. The introduction or enactment of any such future legislation or clarification of the Code may also affect the market price for, or marketability of, the Securities. Attorneys will express no opinion regarding any pending or proposed federal tax legislation.

In rendering the Bond Opinion, Attorneys will rely upon the certified proceedings and other certifications of public officials and other persons furnished to Attorneys without undertaking to verify the same by independent investigation, and Attorneys will assume continuing compliance by the Client with applicable laws relating to the Securities.

Section 3. Excluded Services. Our duties in this engagement are limited to those expressly set forth above in Section 2, except as expressly set forth in a written amendment to this Agreement. Among other things, our duties do not include, unless otherwise agreed in writing:

- a. Except as described in paragraph 2(e) above, assisting in the preparation or review of an official statement or any other disclosure document with respect to the Securities, or performing an independent investigation to determine the accuracy, completeness or sufficiency of any such document or rendering advice that the official statement or other disclosure document does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading.
- b. Preparing requests for tax rulings from the Internal Revenue Service, or “no-action” letters from the Securities and Exchange Commission.
- c. Preparing blue sky or investment surveys with respect to the Securities.
- d. Except as described in paragraph 2(b) above, drafting state constitutional or legislative amendments.
- e. Pursuing test cases or other litigation, such as contested validation proceedings, except as set forth above.
- f. Making an investigation or expressing any view as to the creditworthiness of the Client or the Securities.
- g. Except as described in paragraph 2(g) above, assisting in the preparation of, or opining on, a continuing disclosure undertaking pertaining to the Securities or, after Closing, providing advice concerning any actions necessary to assure compliance with any continuing disclosure undertaking.
- h. Representing the Client in Internal Revenue Service examinations, audits or inquiries, or Securities and Exchange Commission investigations.
- i. After Closing, unless specifically requested to do so by Client, and agreed

to by Attorneys, providing continuing advice to the Client or any other party concerning any actions that need to be taken regarding the Securities; e.g., actions necessary to assure that interest paid on the Securities will continue to be excludable from gross income for federal income tax purposes or the Securities continue to be eligible for treatment as Build America Bonds (e.g., our engagement does not include rebate calculations for the Securities).

- j. Reviewing or opining on the business terms of, validity, or federal tax consequences of any investment agreement that the Client may choose as an investment vehicle for the proceeds of the Securities, unless the Client and Attorneys agree on the terms of such review and compensation for such review.
- k. Reviewing or opining on the business terms of, validity, or federal tax consequences of any derivative financial products, such as an interest rate swap agreement, that the Client may choose to enter into in connection with the execution and delivery of the Securities, unless the Client and Attorneys agree on the terms of such review and compensation for such review.
- l. Addressing any other matter not specifically set forth above that is not required to render our Bond Opinion.

Section 4. Conflicts; Prospective Consent. Attorneys represent many political subdivisions, investment banking firms and financial advisory firms. It is possible that during the time that Attorneys are representing the Client, one or more of Attorneys' present or future clients will have transactions with the Client. It is also possible that Attorneys may be asked to represent, in an unrelated matter, one or more of the entities involved in the delivery of the Securities. Attorneys do not believe such representation, if it occurs, will adversely affect Attorneys' ability to represent you as provided in this Agreement, either because such matters will be sufficiently different from the delivery of the Securities so as to make such representations not adverse to our representation of you, or because the potential for such adversity is remote or minor and outweighed by the consideration that it is unlikely that advice given to the other client will be relevant to any aspect of the delivery of the Securities. Execution of this Agreement will signify the Client's consent to Attorneys' representation of others consistent with the circumstances described in this paragraph.

Section 5. Compensation. For the bond counsel services of Attorneys specified in Section 2, the Client will pay Attorneys a fee equal to \$45,000.

In addition, the Client shall pay to Attorneys all direct out-of-pocket expenses for travel outside the State of California (if any), messenger and delivery service, photocopying, closing costs, legal publication expenses and other costs and expenses incurred by Attorneys in connection with their services hereunder; provided that the reimbursement shall not exceed \$2,500 (excluding publication costs and out-of-state travel costs).

*Payment of said fees and expenses is entirely contingent upon the successful financing of the Project and is due upon completion of the financing for the Project.*

Section 6. Responsibilities of the Client.

(a) General. The Client will cooperate with Attorneys and furnish Attorneys with certified copies of all proceedings taken by the Client, or otherwise deemed necessary by Attorneys to render an opinion upon the validity of the proceedings. During the course of this engagement, Attorneys will rely on Client to provide Attorneys with complete and timely information on all developments pertaining to any aspect of the Securities and their security. Attorneys are not responsible for costs and expenses incurred incidental to the actual execution and delivery of the Securities, including the cost of preparing certified copies of proceedings required by Attorneys in connection with the delivery of the Securities, and printing and publication costs.

(b) Federal Tax Law-Related Responsibilities. The Code imposes various restrictions, conditions and requirements relating to the exclusion from gross income for federal income tax purposes of interest on obligations such as the Securities. As a condition of Attorneys issuing their opinion, you will be required to make certain representations and covenants to comply with certain restrictions designed to insure that interest on the Securities will not be included in federal gross income. Inaccuracy of these representations or failure to comply with these covenants may result in interest on the Securities being included in gross income for federal income tax purposes, possibly from the date of original delivery of the Securities. Attorneys' opinion will assume the accuracy of these representations and compliance with these covenants. Attorneys will not undertake to determine (or to inform any person) whether any actions taken (or not taken) or events occurring (or not occurring) after the date of delivery of the Securities may adversely affect the value of, or the tax status of interest on, the Securities. In this regard, Client agrees to familiarize itself with the relevant requirements and restrictions necessary for the Securities to qualify for exemption from federal income taxation and to exercise due diligence both before and after delivery of the Securities in complying with these requirements.

Section 7. Independent Contractor. Attorneys will act as an independent contractor in performing the services required under this Agreement, and under no circumstances shall Attorneys be considered an agent, partner, or employee of the Client.

Section 8. Assignment. Attorneys may not assign their rights or delegate their obligations under this Agreement, in whole or in part, except with the prior written consent of the Client.

Section 9. Termination of Agreement.

(a) Termination by Client. This Agreement may be terminated at any time by the Client with or without cause upon written notice to Attorneys.

(b) Termination by Attorneys. This Agreement may be terminated by Attorneys upon 15 days' written notice to Client if Client fails to follow written legal advice given by Attorneys.

(c) Termination Upon Issuance of Certificates. This Agreement shall terminate upon the delivery of the Securities.

(d) Consequences of Termination. In the event of termination, all finished and unfinished documents shall at the option of the Client become its property and shall be delivered to the Client by Attorneys.

IN WITNESS WHEREOF, the Client and Attorneys have executed this Agreement as of the date first above written.

**CITY OF LODI**

---

City Attorney

**JONES HALL, A PROFESSIONAL LAW  
CORPORATION**

---

Christopher K. Lynch, Vice President